

### **Remarks**

Claim 1-13 are pending in the application, and claim 13 is allowed. Claims 1-6, 8 and 10-12 are rejected, while claims 7 and 9 are objected to. By this paper, claims 1, 3, and 5 are amended, claims 2, 6-9 and 13 are canceled, and claims 14-18 are added. Based on the following, consideration of the amended and new claims, and reconsideration of the remaining claims, are requested.

### **Claim Rejections—35 U.S.C. § 102**

The Examiner rejected claims 1-3, 5 and 10-11 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,778,218 (Suman). The MPEP states that "'a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference'" MPEP § 2131, 8<sup>th</sup> ed., Rev. 1 (citation omitted). The MPEP further states that "'the identical invention must be shown in as complete detail as is contained in the claim'" *Id.* (citation omitted). Because amended claims 1, 3 and 5, and original claims 10 and 11 each contain elements that are neither expressly nor inherently described in Suman, it is submitted that Suman does not anticipate any of these claims.

Recited in amended claim 1 are "*a base portion including a track*" and "*an occupant-engaging contact portion supported for relative translational movement on the base portion within the track, thereby inhibiting non-translational movement of the contact portion relative to the base portion....*" (Emphasis added.) At the outset it is noted that the amendment to claim 1 is fully supported by the specification as originally filed—see, e.g., page 4, lines 6-9. In addition to the text of the specification, Figure 5 of the original application clearly illustrates the track recited in amended claim 1.

Referring to the Suman reference and claims 2 and 3 of the present application, the Examiner states that "the integral end surfaces of the base portion (unlabeled), as best seen in Figure 2, serve as a track in which the contact portion (34) slides." First, Applicants

respectfully disagree that Figure 2 of the Suman reference illustrates any type of track. Moreover, even if the end surfaces of the base portion of the Suman headrest are construed to serve as a track, there is nothing to indicate that such a track would inhibit non-translational movement of the member 34, as is specifically recited in amended claim 1. The text of the Suman reference does not describe, nor even mention, such a track, and the drawing figures do not show the identical invention in as complete detail as is contained in amended claim 1. Therefore, it is submitted that according to the MPEP definition, Suman does not anticipate amended claim 1.

By this paper, claim 2 is canceled, rendering its rejection moot. Claim 3 is amended to depend from claim 1, because of the cancellation of claim 2. Claim 3, therefore, contains all of the limitations of amended claim 1, as well as additional limitations which further distinguish it from the cited reference. Therefore, it is submitted that amended claim 3 is not anticipated by Suman.

As discussed in more detail below, the Examiner objected to claim 7 as being dependent upon a rejected base claim, but indicated that it would be allowable if rewritten in independent form to include all of the limitations of the base claim and any intervening claims. Claim 5 was the base claim for claim 7, and claim 6 was the only intervening claim. By this paper, claim 5 is amended to include the limitations of claims 6 and 7; amended claim 5 is therefore believed to be in allowable form. Amended claim 5 is the base claim for claims 10 and 11. Each of these dependent claims contains all of the limitations of amended claim 5, as well as additional limitations which further distinguish it from the cited reference. It is therefore submitted that claims 10 and 11 are not anticipated by Suman.

#### **Claim Rejections—35 U.S.C. § 103**

The Examiner rejected claims 4, 6, 8 and 12 under 35 U.S.C. § 103(a) as being unpatentable over Suman in view of U.S. Patent Application No. 2002-0074843 (Malsch et al.). The MPEP states that in order to establish *prima facie* obviousness all of the claim

limitations of an invention must be taught or suggested by the prior art. MPEP § 2143.03, 8<sup>th</sup> ed., Rev. 1.

By this paper, claims 6 and 8 are canceled, rendering their rejections moot. With regard to claims 4 and 12, each contains limitations which are neither taught nor suggested by any of the cited references, alone or in combination. For example, as discussed above with regard to claim 1, the cited references do not teach, nor do they suggest, a track which inhibits non-translational movement of the contact portion relative to the base portion. Because claim 4 depends from claim 1, it contains all of the limitations of amended claim 1, as well as additional limitations which further distinguish it from the cited references. It is therefore submitted, that with regard to claim 4, the MPEP requirements for establishing *prima facie* obviousness are not met.

As discussed above, amended claim 5 is believed to be in allowable form. Claim 12 depends from claim 5, and therefore contains all of the limitations of amended claim 5, as well as additional limitations which further distinguish it from the cited references. It is therefore submitted, that claim 12 is not obvious in light of any of the cited references, either alone or in combination.

#### **Allowable Subject Matter**

The Examiner allowed claim 13; however, by this paper, claim 13 is canceled. This was done to avoid duplication with amended claim 5. As discussed above, the Examiner objected to claims 7 and 9 as being dependent upon a rejected base claim, but indicated that each would be allowable if rewritten in independent form to include all of the limitations of its respective base claim and any intervening claims. Amended claim 5 contains the limitations of claim 7 and intervening claim 6, and is therefore believed to be in allowable form. Similarly, new claim 15 contains all of the limitations of original claim 5, as well as the limitations of claim 9 and intervening claim 8. New claim 15 is therefore believed to be in allowable form.

Amended claim 1 is the base claim for new claim 14, and new claim 15 is the base claim for new claims 16-18. Each of these dependent claims contains all of the limitations of its respective base claim, as well as additional limitations which further distinguish it from the cited references. It is therefore submitted that each of these new claims is allowable.

Accordingly, allowance of each of the pending claims is requested.

Respectfully submitted,

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Date: January 20, 2004

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